

Historical facts and characteristics of the political structure of Switzerland

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the Army, on conditions in Switzerland and on the principles, which should guide the Swiss people in the present world crisis. These are full of philosophical, historical, practical and courageous thinking, and we would refer the earnest reader to these rich and reliable sources of information and inspiration.

Dr. Walter Schmid, Swiss Consul.

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HISTORICAL FACTS AND CHARACTERISTICS OF THE POLITICAL
STRUCTURE OF SWITZERLAND.

The statement, that the Swiss people are celebrating the 650th anniversary of their country, must not be understood as if Switzerland during the course of these centuries has always been the country she is to-day. Figuratively, the growth of Switzerland can best be explained by comparing it with the building of a house, where the start is made by putting up a small building, and then adding in the course of time new structures, so that in the long run a house stands before us, in which the original building is not recognisable any longer from the outside. In 1291 three communities around the Lake of Lucerne set up a rough and tumble little log cabin for the purpose of defending their old individual rights and territory against the intruding Counts of Habsburg, and with the further aim of keeping law and order in a lawless time. In the course of 60 years an additional structure had been added to this simple blockhouse, after five more neighbouring communities had joined the original league, among them the three towns of Lucerne, Berne and Zurich, and two more small peasant communities. This was not achieved without bloodshed, because during these 60 years the Swiss had to fight it out with the Habsburgs and other potentates of these early days. After this it took another 150 years, before the second additional structure had gradually been added. In the course of these 150 years four more towns and one peasant community had joined the original old Swiss league. This new growth of the Swiss league, which had taken place in the 15th and in the first year of the 16th century has cost the Swiss a good deal of blood too, and indeed the 15th century in their history is called the heroic epoch. The house of Habsburg had been beaten off for good and the territorial ambitions of the Archduke of Burgundy and the German Emperor had come to nought through defeat. From approx. 1500 on the Swiss Confederation remained about the same as far as membership in the league is concerned, until the advent of Napoleon. But the Swiss had now started to round off their territory through conquests and alliances. Under the influence of the general European trend of autocratic Government, democracy also decayed a great deal in Switzerland, although it can be said that in comparison with other countries her people still were the freest perhaps on the European Continent for the whole of this long period.

Napoleon invaded Switzerland and made of her a centralised state according to the French model, which, however, was shortlived, because it proved entirely unsuccessful. Compromise organisations between a centralised state and a federation followed, but when the chapter of Napoleon was closed, the Swiss State in 1815 reverted to the old loose structure of a confederacy without a central government. The Congress of Vienna in 1815 fixed the boundaries of Switzerland as they are to-day, and the number of individual states or cantons had finally reached the figure of 22 as at present. Some of the conquered districts had been lost for good, while others and allied territories had been added to the Swiss Confederacy as new cantons. A loose state of affairs lasted until 1848, when the present Swiss Constitution finally was conceived. For Switzerland 1848 was the happy ending of the so-called regeneration movement, which began with the Revolution in Paris in 1830. In neighbouring countries the struggle for liberty did not turn out so well. The whole Continent of Europe was in the clutches of reactionary potentates, and only the revolutionary crisis in 1848 frustrated their plans for dividing up Switzerland. Thus Switzerland was

able to give herself a new constitution without outside intervention and according to her own liking. This constitution transformed the 550 years old confederacy of small independent states into a federal state. It is noteworthy that at that crucial moment in the history of Switzerland, the British Foreign Minister, Lord Palmerston, was a great champion of the Swiss cause. In designing the constitution for their newly planned confederation, the Swiss cast their eyes across the ocean to the United States of America, where a liberty-loving pioneer nation about 70 years before had set a unique example of a Magna Charta of democratic federal government. The federal principle of uniting sovereign individual states in a Confederation proved to be the best solution in the case of America as well as Switzerland. The Swiss, however, did not copy the United States Constitution automatically. They adopted the spirit of it, and as far as principal details go, especially the American system of two chambers. They also constituted a Federal Supreme Court, but with fewer constitutional powers than the Supreme Court of the United States. The Swiss, intensely jealous of the individual rights of the citizen and of the individual states, did not adopt the American system of electing a President, as ruler of the state, since they feared that the extraordinary powers which the President of the United States enjoys, might lead to monarchy or dictatorship. This remark is a quotation contained in a report submitted by the then constitutional committee. Instead of a presidency, according to the American system, a college of 7 members, jointly elected by the House of Representatives and the Senate, was prescribed, which body combines the dignity of a collective magistrate and the functions of a cabinet. Every year in rotation one member of the Federal Council is elected jointly by the two chambers to the chairmanship of the Federal Council and thereby to the Presidency of the Confederation. In contrast with the American Constitution the President of the Swiss Confederation is not the head of the state. This attribute is applicable only to the Federal Council as a body. The functions of the Swiss President are exclusively those of a chairman of this governing body, and in addition that of the highest representative figure head. A further consequence of the Swiss system of Presidency and Federal Council is the absence of ministerial solidarity and responsibility. The executive power, as a matter of principle, solely emanates from the legislative power, and therefore, if a certain policy adopted by the Swiss Federal Council does not find the approval of Parliament, the former simply stays in office - that is, Parliament does not overthrow the Federal Council by passing a vote of non-confidence, and the Federal Council cannot dissolve Parliament either. Neither have the President or the Federal Council the right to veto parliamentary acts.

A few explanations are due at this juncture regarding the difference between the United States and Switzerland, as far as the system of political parties, and their grip on state policy are concerned. In the United States the President is elected on a so-called platform, the meaning of which the reader will understand. In Switzerland, the members of the Swiss Federal Council are not bound to any policy of a political party. They are supposed simply to function and act to the best of their knowledge and conscience. True enough, as a rule, everyone of the Swiss Federal Councillors is a member of a political party, but he is not pledged on this account to carry out the specific policy for which his party stands. Another peculiarity of the Swiss Federal Council is, that even though one party may have a majority in Parliament, the Federal Council is not composed of members of the majority party only. Political minorities have always been represented in the Federal Council according to their strength, although it must be admitted that so far not one seat in the governing body of the Confederation has ever been conceded to the Socialists, notwithstanding the fact that they are well represented in the House of Representatives. This seeming injustice was until recently due to the fact that the Swiss Socialist Party did not see their way clear to declare themselves unequivocally for military preparedness and self defence. Some

years ago, however, the Socialist Party joined the other parties in this pledge, and it is now the consensus of opinion that in future labour must adequately be represented on the Federal Council. The Communist Party was recently legally dissolved. A typical feature in the recent history of the political parties in Switzerland is the remarkable stability in the people's votes. During the last troublesome decade in Europe, the Swiss people kept steadily casting their votes as they did before, with a tendency to eliminate the few extremists on the left and right.

In the realm of the political rights of the Citizen, it can be said that the Swiss Constitution went much farther than that of the United States. Switzerland has not confined herself to a system of representative democracy. The acts of the legislators are controlled in the last resort by the people. Any revision or amendment of the Constitution is submitted to the electors for ratification, and if 30.000 of them so demand, laws undergo the same test. The right of initiative legislation has similarly been granted to the people, but only in constitutional matters and only if 50.000 signatures are presented. Switzerland is probably the only country where direct rule of the people is guaranteed to such an extent and this statement is emphasised by the fact that in most constitutions of the cantons, the people are also guaranteed the right of initiative for new cantonal laws, that is, not only for constitutional legislation. I may also point out that in three of the small cantons in Switzerland elections for the cantonal government and the voting for cantonal legislation and other cantonal government acts are still done as centuries ago in folk moots or Open Air Parliaments, where voting and electing is done by hand raising. It may be surprising though, that women's suffrage is not as yet instituted in Switzerland. The only explanation therefore is, that among the women in Switzerland there is not much enthusiasm for such a concession and the issue has never come before the people in the form of a proposed constitutional amendment.

The following are the individual rights guaranteed by the Federal Constitution: equality before the law and recourse to the judiciary in all and any conflicts with the law; freedom of religious belief and conscience; freedom of worship; freedom of press and speech and for the forming of societies and associations; freedom to choose one's domicile, of carrying out trade and commerce; the right of trial before a constitutional judiciary; guarantee of postal and telegraph secrecy; right for decent burial; prohibition of double taxation; prohibition of certain punishments; right of petitioning of any and all government authorities. The meaning of some of these individual rights can be understood historically only, as for instance the right for decent burial and domicile etc., while others, such as freedom of religious belief and conscience, freedom of press and speech, the forming of societies and associations, guarantee of postal and telegraph secrecy, have again become issues of considerable interest.

As regards the constitutional developments since 1848 it is of course natural that, once the federal superstructure, uniting the Swiss cantons more closely, had been adopted, the powers of the central government were gradually strengthened. The total revision of 1874 went much farther in this direction, as well as the numerous partial revisions which have followed one another for 60 years. Customs, currency, army, post, telegraph, telephone, civil law and mercantile law have in turn been unified. In 1938: criminal law also received federal codification. The railroads have been bought up, standardised and put under state management. A National Bank has been set up in Zurich. Further the influence of the central power is making itself felt inside the cantons more and more. A control is exercised over their acts by the Federal Supreme Court and their constitutions must not contain any provisions contrary to the republican spirit of the federal law.

After having sketched briefly some characteristics of the Swiss Federal Constitution, it is imperative to say something about the political structure of the cantons and the autonomous communes, of which the cantons are composed. Swiss democracy is built up from citizen to commune,

from commune to canton and finally from canton to confederation. Each of these steps in the organisation has its own sphere guaranteed by the Constitution. The actual original state really is the Canton and not the Confederation, as the latter only serves the purpose of a superstructure to hold the cantons together, internally as well as externally. Each canton has its cantonal constitution, cantonal parliament and cantonal council, whereby both of the two governing bodies just mentioned are elected by the people. The cantonal sphere of legislation is guaranteed by the Federal Constitution and the cantons are especially sovereign in matters of education, church, relief, direct taxation and finance in general, and with the Confederation they share especially military defence. Each canton has its own system of Courts of Law and court procedure, with a Cantonal Supreme Court topping the judiciary structure. The communes of each canton are autonomous and display a limited legislative, judiciary and administrative activity. The political organisation of the communes consists - with the exception of the larger towns and cities - of a municipal assembly where citizens meet to discuss and vote on communal matters and elect the president of the commune and the municipal council. In large towns and cities the holding of municipal assemblies is no longer practical and their place has been taken by a municipal parliamentary body representing the citizens, and the political right of the citizens has been reduced to voting and electing at the polls. It is significant for the autonomy and importance of the communes, that Swiss citizenship is derived from citizenship rights in a Swiss commune and not from citizenship rights in either a canton or the confederation. To be a Swiss citizen one first of all has to be a citizen of a Swiss commune. This system of course dates back to the beginning of the Swiss state, when there was no central Swiss government and the commune was the original state. Switzerland in recent political literature therefore also has been defined as a "Nation of autonomous Communes".

Thus in glancing over this naturally grown, intricate, federalistic structure of the Swiss State, we are reminded that the Swiss Confederation fundamentally, like that of the old League, is chiefly based on the autonomy of the approximately 3000 communes and the 22 internally sovereign individual states, the cantons, all of which indeed have been the basic units of the state since the very beginning and which have developed the institutions of rights and democracy. This thorough federalistic organisation of Switzerland acts as a guarantee against the dangers of mass rule and as a safeguard against many other dangers necessarily arising in a democracy. It likewise prevents any minority problems arising and guarantees the right to live to the smallest unit, that is, it guarantees internal neutrality which is not of secondary importance for a people of different religious beliefs and where alongside 72% of German speaking Swiss are living 20% of French speaking and 6% of Italian speaking Swiss.

There is one other elementary factor in Swiss democracy which must not be overlooked: Compulsory military service. Every Swiss is liable to military service. This is briefly and significantly laid down by Article 18 of the Swiss Federal Constitution. This rule has been in force since 1291 and will continue to exist as long as our country exists. In former centuries our armed forces won for us our freedom and consolidated it. The military organisation of the Confederation is a heritage of our national unity and of our democracy. Particularly in the old confederacy before 1848 it welded us more strongly together than did the loose federal ties. To-day Switzerland stands more united than ever before in her history, not only because of the common danger, which has been threatening her since the outbreak of this war, but also on account of the people's army, which has been on active service ever since the 2nd of September 1939, for the common cause of the Confederation.

Dr. Walter Schmid.